

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA

U.S. DISTRICT COURT
SO. DIST. AL.
MOBILE, AL. 36602
JAN 2 12 37 PM '96

UNITED STATES OF AMERICA

versus

DON LEONARD SCOTT

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FILED
CLERK'S OFFICE
CRIMINAL CASE 94-00061-CB

MOTION TO CORRECT RECORD

Now into Court, through undersigned counsel, comes defendant herein, Don Leonard Scott, who moves this Honorable Court to correct the record filed in the appellant court. This motion should be granted for the following reasons to wit:

- 1) A timely notice of appeal was filed in this matter. A docketing statement was subsequently received by undersigned. That statement indicated that the transcript of the Motion to Suppress Hearing was filed in the record. However, when the transcripts were actually received by undersigned on December 21, 1995, it was disclosed that only a partial transcript of the Motion to Suppress Hearing had been filed with the appellate court.
- 2) The hearing on the Motions to Suppress was transcribed at two different times. Originally, 233 pages of the Motion to Suppress were transcribed. Thereafter, the rest of the Motion to Suppress Hearing was transcribed pursuant to court order allowing defendant to proceed as a pauper. Only the latter transcript was filed in the appellant court.


REFERRED TO JUDGE *Butler*
For Ruling or Appropriate Action
DATE 1-2-96

- 3) A review of the docketing sheet did not disclose to undersigned that only a portion of the transcript had been filed and, therefore, no earlier motion was filed.
- 4) In order to fully and adequately represent the interests of the defendant and to provide the effective assistance of counsel demanded by the Sixth Amendment, it is imperative that the record in this matter be corrected.

Wherefore, defendant prays for an order from this Honorable Court correcting the record on appeal, specifically providing the unfiled portion of the transcript of the Motion to Suppress Hearing be filed in the appellant record.

Respectfully Submitted,


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By: Eulis Simien, Jr. Bar No 12077

CERTIFICATE

Undersigned certifies that he has this date served a copy of the foregoing on all counsel of record by placing a copy of the same in a properly addressed, postage prepaid envelope in the United States First Class Mail.

Done on this 28th day of December, 1995, at Baton Rouge, Louisiana.


Eulis Simien, Jr.